

Procter & Gamble – I.P. Division**IMPORTANT CONFIDENTIALITY NOTICE**

The documents accompanying this teletype transmission contain confidential information belonging to the sender which is legally protected. The information is intended only for the use of the individual or entity named below. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this teletype in error, please immediately notify us by telephone (collect) to arrange for return of the telecopied document to us.

**RECEIVED
CENTRAL FAX CENTER**

**FACSIMILE TRANSMITTAL SHEET AND
CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

AUG 14 2007

TO: United States Patent and Trademark Office
Mail Stop Appeal Brief - Patents
Examiner: Michele M. Kidwell

Fax No. 571-273-8300

Phone No. 571-272-4935

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on August 14, 2007, to the above-identified facsimile number.

Barbara Carver (Signature)

FROM: Barbara A. Carver (Typed or printed name of person signing Certificate)

Fax No. 513-634-5049

Phone No. 513-634-5044

Listed below are the item(s) being submitted with this Certificate of Transmission:**

- 1) Reply Brief (2 pages)
- 2) Request for Oral Hearing (1 page)
- 3)
- 4)
- 5)

Inventor(s): Michael C. Raufman, et al.

S.N.: 10/664,373

Filed: September 17, 2003

Docket #: 7792C

Confirmation No.: 4564

Number of Pages Including this Page: 4

Comments:

**Note: Each paper must have its own certificate of transmission, OR this certificate must identify each submitted paper.

**RECEIVED
CENTRAL FAX CENTER**

AUG 14 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/664,373
Inventor(s) : Michael C. Raufman, et al.
Filed : September 17, 2003
Art Unit : 3761
Examiner : Michele M. Kidwell
Docket No. : 7792C
Confirmation No. : 4564
Customer No. : 27752
Title : Absorbent Articles Having Positioning Indicia

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Reply Brief is filed pursuant to the appeal from a final Office Action mailed on August 28, 2006. A timely Notice of Appeal was filed on November 28, 2006 and a timely Appeal Brief was filed on January 26, 2007. This Reply Brief is being filed in response to the Examiner's Answer mailed on June 14, 2007, making this Reply Brief due on or before Tuesday, August 14, 2007.

REPLY TO EXAMINER'S ANSWER

In the "Response to Argument" section of the Examiner's Answer, the Examiner states with regard to Pozniak that the "examiner does not equate the middle to either of the first and/or second image element." The Examiner continues by stating that the "middle is relied on to show the completion of the predetermined ornamental visual image once the first and second image elements have been secured to the first waist region." The Examiner's reliance on the indicia lines in the middle of the article in Pozniak to show the "completion" of the predetermined ornamental visual image recited in claim 1 is in error.

Independent claim 1 recites, among other elements, a "predetermined ornamental visual image consisting of a first image element and a second image element, wherein the

Appl. No. 10/664,373
Docket No. 7792C
Reply Brief dated August 14, 2007
Reply to Examiner's Answer mailed on June 14, 2007
Customer No. 27752

first image element is joined to one of the pair of side panels and the second image element is joined to another of the pair of side panels." (emphasis added). The words "consisting of" is a closed transitional term, which excludes unrecited additional components. (*See § MPEP 2111.03*). Claim 1 further recites that "when the side panels are secured to the first waist region the first and second image elements complete the predetermined ornamental visual image." (emphasis added).

In contrast to the Examiner's assertion, the predetermined ornamental visual image of claim 1 consists of and is completed by a first image element and a second image element, as opposed to (1) the indicia lines on the right side of the article of Pozniak; (2) the indicia lines on the left side of the article of Pozniak; and (3) the indicia lines in the middle of the article of Pozniak.

SUMMARY

In view of the remarks above, it is respectfully requested that the Honorable Board of Patent Appeals and Interferences reverse the rejections of Claims 1 and 2.

Respectfully submitted,
THE PROCTER & GAMBLE COMPANY



Charles R. Matson
Registration No. 52,006
(513) 634-0072

Date: August 14, 2007

Customer No. 27752